



FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

SEP 19 2006

By U.S. Mail and Facsimile to (614) 527-6763

Ohio State Medical Association PAC
Tim Maglione, Treasurer
3401 Mill Run Drive
Hilliard, Ohio 43026

RE: MUR 5812
Ohio State Medical Association PAC
and Tim Maglione, in his official
capacity as Treasurer

Dear Mr. Maglione:

On September 12, 2006, the Federal Election Commission found that there is reason to believe Ohio State Medical Association Political Action Committee ("Committee") and you, as treasurer, violated 2 U.S.C. §§ 432(c)(5), 434(b)(2), (4), (6)(B)(v) and 11 C.F.R. §§ 104.3(a), (b), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). These findings were based on information ascertained by the Commission in the normal course of carrying out its supervisory responsibilities. *See* 2 U.S.C. § 437g(a)(2). The Factual and Legal Analysis, which more fully explains the Commission's findings, is attached for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred.

Please note that you have a legal obligation to preserve all documents, records and materials relating to this matter until such time as you are notified that the Commission has closed its file in this matter. *See* 18 U.S.C. § 1519.

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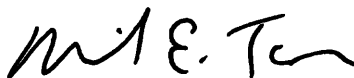
Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public.

For your information, we have enclosed a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Elena Paoli, the staff attorney assigned to this matter, at (202) 694-1548.

Sincerely,



Michael E. Toner
Chairman

Enclosures
Factual and Legal Analysis
Procedures
Designation of Counsel Form

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Ohio State Medical Association
Political Action Committee
Tim Maglione, in his official
capacity as Treasurer

MUR: 5812

I. INTRODUCTION

This matter was generated based on information ascertained by the Federal Election Commission ("the Commission") in the normal course of carrying out its supervisory responsibilities. *See* 2 U.S.C. § 437g(a)(2). Based upon such information and the analysis below, there is reason to believe that Ohio State Medical Association Political Action Committee ("OSMAPAC" or "Committee") and Tim Maglione, in his official capacity as Treasurer, violated 2 U.S.C. §§ 432(c)(5), 434(b)(2), (4), (6)(B)(v) and 11 C.F.R. §§ 104.3(a), (b).

II. FACTUAL AND LEGAL ANALYSIS

OSMAPAC has been registered with the Commission as a political committee since 1972. In July 2005, two attorneys and OSMA's senior director called the Commission to report that they just discovered through an internal audit that a former employee, Jamee L. Patton, diverted \$83,570 to herself. The Committee asked how to report the embezzled disbursements and also how to report an expected payout from an insurance company covering the embezzled funds. Pursuant to the Commission's instructions, the Committee reported to the Commission each check that diverted a payment to Patton.

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According to the Committee, Patton embezzled \$83,570 by disguising 57 checks as contributions to the American Medical Association PAC ("AMAPAC"), a political committee with which OSMAPAC is affiliated. Patton only noted the unauthorized disbursements in OSMAPAC's internal accounting records; the payments were not disclosed on the Committee's FEC disclosure reports.¹ Thus, OSMAPAC's accounting records showed that it contributed \$266,725 to AMAPAC between December 1, 2001 and May 19, 2005, while FEC reports disclosed that OSMAPAC contributed \$183,155 during the same time period. *See* Attachment 1 (chart showing Patton's checks to herself and OSMAPAC contributions to AMAPAC). Because the unauthorized payments were not disclosed on the FEC reports, the FEC reports have inaccurately shown that the Committee had more cash on hand than it actually had:

	Year End Reported Cash on Hand	Actual Cash on Hand²
2000	\$44,564	\$42,564 (Patton took \$2,000)
2001	\$132,387	\$126,387 (Patton took \$6,000)
2002	\$177,993	\$150,073 (Patton took \$27,920)
2003	\$205,971	\$183,521 (Patton took \$22,450)
2004	\$216,264	\$198,014 (Patton took \$18,250)
2005	\$127,533	\$120,583 (Patton took \$6,950)

Notwithstanding that the Committee discovered the unauthorized disbursements on its own through an internal audit, it does not appear that the Committee regularly undertook audits, had control procedures over disbursements, segregated duties, or conducted periodic review of its finances, resulting in Patton's ability to misappropriate Committee funds for four and a half years.

¹ Apparently, Patton had some responsibility for preparing FEC disclosure reports because the Commission's Reports Analysis Division analyst spoke to Patton on occasion about the reports

² This figure only takes into account the unauthorized disbursements to Patton

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Although the Committee's failure to accurately report disbursements stems from Patton's apparent embezzlement of campaign funds, the Committee nevertheless appears to have violated the Act when it filed the resulting inaccurate reports. Under the Act, OSMAPAC, through its treasurer, was required to accurately account for disbursements and report them to the Commission. *See* 2 U.S.C. §§ 432(c)(5), 434(b)(4), (6)(B)(v); 11 C.F.R. § 104.3(b). OSMAPAC and its treasurer are ultimately responsible for complying with the Act and bear some of the responsibility for the reporting violations that resulted from the Committee's apparent lack of internal controls. Therefore, there is reason to believe that OSMAPAC and Tim Maglione, in his official capacity as Treasurer, violated 2 U.S.C. §§ 432(c)(5), 434(b)(4), 434(b)(6)(B)(v) and 11 C.F.R. § 104.3(b) by failing to accurately account for report disbursements.

In addition, the Committee failed to timely disclose the receipt of the check from its insurance company that covered the claim for the embezzled funds. The Committee received the check for \$81,070 from its connected organization on September 26, 2005. The check should have been reported as a receipt in the Committee's 2005 Year End Report, which it filed on January 26, 2006. The check, however, was not disclosed until the Committee amended its 2005 Year End Report, which was filed on April 14, 2006. Therefore, there is reason to believe that OSMAPAC and Tim Maglione, in his official capacity as treasurer, violated 2 U.S.C. § 434(b)(2) and 11 C.F.R. § 104.3(a) by failing to timely disclose a receipt.

Attachment: Chart

ATTACHMENT 1

The following chart lists the checks by date that Patton wrote to herself but disguised as contributions to AMAPAC. The second column lists actual contributions to AMAPAC, as disclosed in OSMAPAC's disclosure reports.

<u>DATE</u>	<u>AMOUNT TO PATTON</u>	<u>AMAPAC CONTRIBUTION</u>
12/01/00	\$2,000	
01/10/01		\$6,610
02/20/01		\$1,700
03/15/01		\$10,450
04/12/01		\$6,850
04/17/01	\$1,000	
05/07/01	\$1,000	
05/10/01		\$3,500
06/20/01		\$5,850
08/16/01	\$ 500	
08/22/01		\$4,400
09/13/01	\$1,000	
10/05/01	\$1,000	
10/29/01		\$2,050
10/29/01		\$8,900
11/06/01	\$1,500	
01/25/02		\$8,300
01/31/02	\$ 700	
03/19/02	\$ 500	
04/01/02		\$20,000
04/10/02	\$ 750	
04/29/02	\$1,000	
05/04/02	\$ 750	
05/08/02		\$6,350
06/20/02	\$ 3,000	
07/10/02		\$5,900
07/14/02	\$ 1,000	
08/12/02	\$ 2,000	
08/ /02 ¹	\$13,220	
08/30/02	\$ 1,000	
09/13/02		\$1,500
10/07/02	\$ 1,000	
11/09/02	\$ 500	
11/11/02	\$ 1,500	

¹ The date of this check is reported as "08/1B/02 "

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<u>DATE</u>	<u>AMOUNT TO PATTON</u>	<u>AMAPAC CONTRIBUTION</u>
12/03/02	\$ 1,000	
01/15/03	\$ 1,000	
01/27/03		\$14,400
02/25/03	\$ 1,000	
03/04/03	\$ 1,000	
03/12/03		\$9,300
03/24/03	\$ 750	
03/28/03	\$ 500	
04/08/03	\$ 500	\$1,800
04/25/03	\$ 1,200	
05/13/03	\$ 1,250	\$2,150
05/21/03	\$ 750	
06/04/03	\$ 1,250	
06/10/03		\$5,050
07/17/03	\$ 1,250	\$3,310
08/05/03	\$ 2,000	
08/29/03		\$750
09/10/03	\$ 500	
09/23/03	\$ 500	
10/03/03	\$ 1,250	
10/15/03		\$1,500
11/04/03	\$ 1,250	
12/02/03	\$ 1,250	
12/17/03	\$ 2,000	
12/23/03	\$ 1,500	
01/15/04	\$ 1,000	
01/29/04		\$5,050
02/06/04		\$2,035
02/27/04	\$ 1,500	
03/11/04		\$4,730
03/17/04	\$ 1,500	
04/15/04		\$7,700
05/03/04	\$ 1,500	
05/13/04	\$ 750	
05/25/04		\$5,815
05/26/04	\$ 4,000	
06/24/04	\$ 2,000	
09/10/04	\$ 1,500	
10/25/04		\$10,495
11/01/04	\$ 2,500	
11/15/04	\$ 2,000	
01/03/05	\$ 2,500	
02/02/05	\$ 1,500	
03/14/05		\$6,460

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<u>DATE</u>	<u>AMOUNT TO PATTON</u>	<u>AMAPAC CONTRIBUTION</u>
04/05/05	\$ 500	
04/12/05	\$ 750	\$10,250
04/26/05	\$ 1,200	
05/19/05	\$ 500	
TOTAL:	<u>\$83,570</u>	<u>\$183,155</u>